

From: Justin LaVan [mailto:justin@lamarcalandry.com]

Sent: Tuesday, June 28, 2005 3:49 PM

To: Leto, Sam [LEGIS]

Subject: Re: Home School Rules

Below please find a quickly cleaned up summary of the e-mails and information obtained on the Winterset Situation and Griswold Incident. If you need it in a professional format or letter please feel free to e-mail me or call me at 515.327.7469.

Pursuant to your request on the recent media and the call for reform of the home school rules, I respectfully submit the following for your consideration.

With regard to the Winterset story, please note the Neely child was enrolled in the Home School Assistance Program (HSAP) offered by and supervised by the Winterset Community School District. The Winterset School District was required to conduct supervising visits of the girl and already had a number of concerns before placing her in the HSAP program. HSAP students must by law be monitored regularly by a supervising teacher selected by the resident public school district – **four times per quarter [about every two weeks]**. HSAP students are enrolled students on the public enrollment records. School Districts receive 60% funding for each HSAP student. HSAP students do not have to file Competent Private Instruction (CPI) forms. Consequently, the HSAP program, which is the concern, is a form of public education, not Competent Private Instruction. The parent and live in girlfriend could not and did not avoid authorities in this manner.

If the request is for a procedure when a family in HSAP cancels an assessment appointment, current Iowa Administrative Code § 31.4(5) ¶ 2 provides that schools can adopt any additional restrictions they want to the HSAP program. So basically any new requirements for HSAPs are requirements local schools could already impose without changing the regulations or competent private instruction statute [299A]. The proper solution is to have the local schools make it mandatory to reschedule an HSAP assessment within three or four weeks.

Second, with regard to the Griswold situation (the tragic fire that killed two children, set by the teenage daughter), the children were not home schooled. Attached is a letter from the Griswold school district stating they were not home schooled.

Here are some additional bullet list thoughts on this subject:

1. A review of the true facts indicate that, although both media cases have been used as bad homeschooling examples, neither of these cases provide any link between homeschooling and escaping oversight to detect child abuse. None.
2. If an abhorrant person uses homeschooling to hide child abuse, it is clearly an anomaly. We cannot legislate against anomalies, without destroying the very liberties guaranteed to us by our constitution. And I would add Iowa is not a statist society where the fervor to prevent crime crushes the people's liberty.
3. Homeschooling in Iowa is a proven legal option that is great for the state of Iowa. The statistics and studies overwhelmingly demonstrate that home educated children perform extremely well on standardized tests, college entrance exams and in society. Iowa also benefits by significant tax savings. A Nevada study found:

Based on 2003 data, the analysis shows an annual potential cost savings to Nevada taxpayers ranging from \$24.3 million to \$34.6 million attributable to homeschool students, and another \$101.9 to \$147 million attributable to private school students, for a combined total of \$126.2 million to \$181.7 million. This total amounts to an annual potential cost savings ranging from \$327 to \$471 per Nevada public school student.

Whenever a group of citizens is voluntarily saving the state that sort of money, as well as paying the taxes which fund the system they don't utilize, then maybe the state needs to be pushing for more of it, not tampering with its success.

4. We should have less barriers encouraging home education, not more barriers.
5. There seems to be a calling for frequent interviews of homeschooled children by government officials in search of evidence of child abuse, without any justification. Why single out homeschooled children? Such laws or rules would logically have to include oversight of all teachers given the recent reports of abuse in the public schools and private schools. Think of the massive bureaucracy Iowa would have to create and the costs. Think of how invasive the state of Iowa would have to be to put any realistic dent in abuse. Moreover, Iowa would have to treat every family and teacher as a criminal suspect.
6. There is no state in our nation where a government official has a right to "see" every home schooled child.

7. Our laws must continue to reflect the societal presumption that we are innocent until proven guilty. The Supreme Court has said, in the case of *Troxel v. Granville*, 530 U.S. 57 (2000), "... there is a presumption that fit parents act in the best interest of their children." If Iowa mandates seeing every child, then parents would be guilty of SOMETHING if they refuse to allow it. This reverses the presumption and makes them guilty until proven innocent.

[Here is a copy of the letter to request a correction of the media reports.]

Dear Mr. Greenwood:

You may be contacted by the Network of Christian Home Educators officially on this matter, but wanted to update you personally in a timely manner.

I looked into the two home schooling stories you featured a few days ago.

Mary Beth of the Griswold School District informed there are no reports or required forms indicating the family in Griswold elected to home school. I requested this in writing, which I was told would be sent to me shortly.

The children in the Griswold Fire tragedy were not home schooled but truant. Please let me know if you can fix this fact as reported. I am sure you want to report the story accurately and truthfully. One does not automatically become home schooled just because their compulsory age children are not enrolled in school. Chapter 299 and 299A require forms electing home education and prescribe requirements for assessment and supervision of the child.

In addition, with regard to the Winterset story, please note the Neely child was enrolled in the Home School Assistance Program offered by and supervised by the Winterset Community School District. Winterset School District was required to conduct supervising visits of the girl.

The parents could not and did not avoid authorities in this manner. These isolated incidents do not support any implication of home educators avoiding authorities.

Since the hot topic in the legislature this year is school performance, perhaps you should do a story on how well home schooled children performed academically in our state. I know a family in my church who home educated their children and their daughter scored a perfect score on the ACT. See the Des Moines Register Article of December 13, 2004 by

Dawn Sagario, "Home schooling passes test in achievement scores" and the attached Study on Home Education. I think Iowa should reduce the barriers and regulations to home education in order to equally promote home education, private education, and public education and attain the goal of increased student academic performance.

Very Truly Yours,

Justin E. LaVan

LaMarca & Landry P.C.
1820 NW 118th Street, Suite 200
Des Moines, IA 50325
Telephone: (515) 327-7469 (direct dial)
Facsimile: (515) 225-8581
<mailto:justin@lamarcalandry.com>

E-mail from KCCI.

Justin:

Thanks for your two e-mails last week. After I received them I spoke with the Griswold superintendent, and he confirmed that none of the Dyess children had been enrolled in the Griswold school system and none had home schooling forms on file with that district. As you may recall, initially we reported that there had been conflicting reports on Tracey Dyess's status. On our Monday night 10 p.m. broadcast we clarified the situation by reporting what the superintendent released to us.

For your information, on the day we ran the story I contacted Kathi Slaughter, the designated media spokesperson for the Iowa Department of Education. I asked her to confirm whether the girl was registered as a home schooled student. Kathi stated that the information I sought was not available at the state level. She also told me it would be on file with the appropriate AEA, but that information was not public. After you contacted me I spoke with the superintendent, who released the information.

Regards,

Geoff Greenwood

KCCI-TV*****



ATTORNEYS AND COUNSELLORS AT LAW

GEORGE A. LAMARCA*

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NICK J. AVGERINOS†
of Counsel

* ALSO ADMITTED IN FLORIDA

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April 6, 2005

Via Facsimile (712.778.4145)

Griswold Community School District
P.O. Box 280, 20 Madison
Griswold, IA 51535

RE: Request for Information
-- Parents: Debbie Street and Brian Street
Children: -- Tracey Dyess-- Kaleb and -- Jesica

This is a request under the Freedom of Information Act, 5 U.S.C.A. § 552 and Chapter 22 of the Iowa Code, "The Examination of Public Records, Open Records Statute."

Please indicate if the Street (Dyess) children as indicated above were receiving competent private instruction pursuant to Chapter 299A and if this was:

1. pursuant to a home school assistance program;
2. pursuant to supervising teacher option;
3. pursuant to standardized test evaluation; or
4. pursuant to 299A.4(7), portfolio evaluation.

I am also requesting a copy of the following documents or materials:

- All reports as to private instruction, including but not limited to the Competent Private Instruction form pursuant to Iowa Code §299.4 and Chapter 299A for the children filed by either Debbie Street or Brian Street

Please feel free to fax me or e-mail me the information in pdf form (justin@lamarcalandry.com). If any of the requested information does not exist, please indicate that none exists.

I appreciate your prompt handling of this request and look forward to hearing from you today.

1820 N.W. 118th Street

Suite 200

Des Moines, Iowa 50325

Telephone: (515) 225-2600

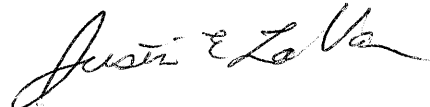
FAX: (515) 225-8581

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Very truly yours,

LaMARCA & LANDRY, P.C.

A handwritten signature in cursive script, reading "Justin E. LaVan". The signature is written in dark ink and is positioned above the printed name.

Justin E. LaVan

JEL/jel

Griswold Community School District

"Home of the Tigers"



20 Madison St. ~ P.O. Box 280 ~ Griswold, Iowa 51535

Superintendent - Darwin Lehmann - 712-778-2152 <dlehmann@griswold.k12.ia.us> Fax #712-778-4145

6 - 12 Principal - TJ Dunphy - 712-778-2154 <tdunphy@griswold.k12.ia.us> Fax #712-778-2161

Elem. Principal - Betty Johnston - 712-767-2221 Elliott Building Fax #712-767-2211 <bjohnston@griswold.k12.ia.us>
712-769-2221 Lewis Building Fax #712-769-2211

April 6, 2005

Justin LaVan
LaMarca & Landry, P.C.
1820 N.W. 118th St., Ste. 200
Des Moines, IA 50325

Dear Mr. LaVan:

This letter is in response to your fax of April 6, 2005 in which you requested information regarding children Tracey Dyess, Kaleb Dyess and Jessica Dyess. As I indicated to you on the phone, none of these children were enrolled in the Griswold Community School. We had no open enrollment requests on them, nor did we have any competent private instruction forms for them. If you have additional questions regarding this, please contact Superintendent Darwin Lehmann or me at 712-778-2152.

Sincerely,

Mary Beth Fast
Business Manager
Griswold Community School District

"Commitment To Excellence"

The mission of the Griswold Community School District, in partnership with our families and communities, is to provide leadership for positive change to ensure the best learning opportunities for everyone in a safe and caring environment.

